

EXHIBIT 1
DATE 1/7/09
NR NONE

OFFICE OF THE STATE PUBLIC DEFENDER

[REDACTED]
**PRESENTATION TO
THE HOUSE JUDICIARY COMMITTEE**

JANUARY 2009

MISSION AND OPERATING STATUTE

Mission: The mission of the Office of the State Public Defender is to ensure equal access to justice for the State's indigent and to provide appellate representation to indigent clients.

Statute: The agency operates under Title 47, the Montana Public Defender Act.

AGENCY FORMATION

The agency began providing services to clients on July 1, 2006 (FY 2007). Prior to that date services were provided by counties and cities.

The agency was formed to address certain legal issues brought forth by the American Civil Liberties Union (ACLU).

MANAGEMENT

The agency is supervised by the Montana Public Defender Commission (an 11-member committee appointed by the Governor).

Daily operations are managed by the Chief Public Defender. The Chief manages the central services functions, 11 Regional Deputy Public Defenders, and the Chief Appellate Defender.

PROGRAMS

The agency has two programs:

1. The Public Defender Program
2. The Appellate Defender Program

PUBLIC DEFENDER PROGRAM

The Public Defender Program provides defense services to individuals that qualify under Title 47 including:

- Persons determined to be indigent
- Respondents in proceedings for involuntary commitment
- Persons who are the subject of a petition for the appointment of a guardian
- Youths in youth court

PUBLIC DEFENDER PROGRAM

The public defender program has offices in 11 regions throughout the state serving cases in 56 district courts, over 180 courts of limited jurisdiction, and in various specialized courts. There were approximately 26,500 new cases during FY 2008.

This program also manages central services functions for the agency that include system supervision, contract management, training, administration, and mental health consulting.

PUBLIC DEFENDER PROGRAM

The program has 184.50 authorized FTE and uses over 225 contract attorneys, investigators, and mental health consultants.

APPELLATE DEFENDER PROGRAM

The Appellate Defender Program provides appellate services to individuals eligible for public defender services under Title 47 and petitioners in post conviction relief proceedings.

This program serves the Supreme Court.

During FY 2008 this program filed 190 opening briefs, 136 reply briefs, and 11 petitions for post conviction relief.

The program has 8.00 authorized FTE and uses about 6 contract attorneys.

FUNDING - PUBLIC DEFENDER PROGRAM

	<u>FY07</u>	<u>FY08</u>	<u>FY09</u>	<u>FY10</u>	<u>FY11</u>
Payroll	\$9.5	\$10.6	\$11.2	\$11.1	\$11.0
Op exp	<u>9.2</u>	<u>9.3</u>	<u>8.1</u>	<u>8.3</u>	<u>8.2</u>
Totals	\$18.7	\$18.7	\$19.3	\$19.4	\$19.2

FTE 184.50 184.50 184.50 191.50 191.50

Dollar amounts in millions

FUNDING – APPELLATE DEFENDER PROGRAM

	<u>FY07</u>	<u>FY08</u>	<u>FY09</u>	<u>FY10</u>	<u>FY11</u>
Payroll	\$0.5	\$0.5	\$0.6	\$0.6	\$0.6
Op exp	<u>0.3</u>	<u>0.3</u>	<u>0.3</u>	<u>0.3</u>	<u>0.3</u>
Totals	\$0.8	\$0.8	\$0.9	\$0.9	\$0.9
FTE	8.00	8.00	8.00	9.00	9.00

Dollar amounts in millions

AGENCY LEGISLATION – 2009 SESSION

Senate Bill 45 to “clean up” original legislation

Senator Dan McGee – Sponsor

Short Title: Certain evidence to be disclosed to
an indigent criminal defendant without cost
to the defendant.

AGENCY ISSUES

- Growing caseloads – about 4 percent per year
- Recruitment and retention of qualified attorneys
- Growing number of courts to serve
- ACLU lawsuit
- Additional vacancy savings nearly offsets funding for new FTE
- Increase in Appellate operating costs and other fixed costs offset by loss of transition appropriation.